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Appln. No. 10/723,222
Amendment dated December 1, 2008
Reply to Office Action mailed August 25, 2008

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REMARKS

Reconsideration is respectfully requested.

Claims 1 through 3, 6 through 13, 16 through 31 and 33 remain in this application. Claims 4, 5, 14, 15 and 32 have been cancelled. No claims have been withdrawn. No claims have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Part 1 of the Office Action

Claims 12, 21, 22 and 32 have been rejected under 35 U.S.C. §112 (first paragraph) as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

Claim 12 has been amended to recites "wherein a portion of the real time program is not buffered by the means for buffering". It is submitted that this recitation is clearly supported and enabled in the specification, particularly at page 6, lines 18 et seq.

Claim 21 has been amended to require that "the buffer is configured to initiate buffering of the real-time program from the display of caller identification information for the call the buffer being further configured to not buffer portions of the real-time program such that playback of the buffered program, the portions of the real-time program not buffered are not played back and the buffering continues until the buffered program coincides with the real-time program" It is submitted that this is clearly supported and enabled in the specification, particularly at page 6, line 18

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through 22.

With respect to claim 22, and the questions set forth in the rejection, it is noted that in the specification, and particularly at page 6, lines 28 et seq. it is disclosed that "In a further embodiment, several seconds or other predetermined time of the video or audio signals *are always buffered* such that replay of the buffered signals following a call occurs *from a point several seconds prior to* the first indication of the call" (emphasis added). It is submitted that one of ordinary skill in the art recognizes that when a portion of the signals are always being buffered, then it is possible to buffer the signal not only after the first indication of the call, but also to retain in the buffer a portion of the signal occurring before the first indication of the call.

With respect to claim 32, which is now incorporated into claim 20, it is noted that the specification discloses at page 6, lines 19 et seq. state that "[t]he buffering of the real time video signal continues until the display of buffered video is the same as the real time video signal in step 345. This occurs when the program ends, or if the portions of the buffered video *were played [back] faster than originally received*" (emphasis added). It is submitted that (at least) this portion of the specification program discloses to one of ordinary skill in the art that the playback may occur faster than originally received without the user having to fast forward through the program.

Withdrawal of the §112 (first paragraph) rejection of claims 12, 21, 22 and 32 is respectfully requested.

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Parts 2 through 6 of the Office Action

Claims 12, 21 and 32 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Asmussen in view of Takagi.

Claim 24 has been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Asmussen.

Claims 28 and 30 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Asmussen in view of Langoni.

Claims 31 and 33 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Asmussen in view of Takagi as applied to claims 12 and 21 above, and further in view of Christopher.

Claim 26 has been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Asmussen in view of Brunelle.

Claims 20, 22, 23, 25, 27 and 29 have been rejected under 35 U.S.C. §102(e) as being anticipated by Asmussen.

Claim 12, particularly as amended, requires that "a portion of the real time program is not buffered by the means for buffering". It is conceded in the rejection that:

Asmussen differs from claim 12 in that he does not specifically teach the following: wherein the portion of the real time program is not buffered by the means for buffering to facilitate coincidence of the buffered program with the real time program (this is implied in as much as the reference teaches buffered program is played out till it catches with real time program).

It is then contended that:

However, Takagi discloses television receiver, recording and reproduction device, data recording method, and data reproducing method which teaches the following: wherein the portion of the real time program is not buffered by the means for buffering to facilitate coincidence of the buffered program with the real time program (this

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is implied in as much as the reference teaches buffered program is played out till it catches with real time program (col. 10 lines 11-22).

And it is further asserted that:

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Asmussen's system to provide for the following: wherein the portion of the real time program is not buffered by the means for buffering to facilitate coincidence of the buffered program with the real time program (this is implied in as much as the reference teaches buffered program is played out till it catches with real time program as this arrangement would facilitate to catch up with the real-time program being received without buffering portion of the real-time program as taught by Takagi, thereby conserving the use of memory or buffer.

It is submitted that, even if one were to make the combination alleged to be obvious in the rejection, that one of ordinary skill in the art would arrive at the requirements of claim 12. More particularly, the portion of the Takagi patent cited in the rejection does not disclose what is asserted in the rejection as being set forth in Takagi. The Takagi patent states at col. 10, lines 11 through 22 that:

During the high-speed reproduction after the input of 'restart' as the user input b, the high-speed reproduced video image chases the on-air broadcasted video image and, when the high-speed reproduced video image catches up with the one-air broadcasted video image, i.e., when the address of the reading pointer 32 matches the address of the writing pointer 31, the control circuit 6 interrupts both the writing operation by the writing pointer and the reading operation by the reading pointer 32 and, simultaneously, it switches the selector 5 to select the video signal from the tuner 1, whereby the on-air broadcasted video image is displayed on the CRT display unit 10.

However, what is discussed here is the operation after "the high-speed reproduced video image catches up with the one-air broadcasted video image", but nothing is disclosed as to how or why this occurs. The rejection assumes that this "catch up" must occur because a "portion of the real time program is not buffered", but there is nothing in the Takagi, particularly at the referenced portion, that discloses to one of ordinary skill in the art what causes or is responsible for the "catch up, between the

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images. In fact one of ordinary skill in the art is left to guess or speculate how or why the "catch up" occurs. The discussion of what happens when the "catch up" results is not a disclosure of what caused the "catch up".

It is therefore submitted that the allegedly obvious combination of Asmussen and Takagi could not lead one of ordinary skill in the art to the claimed invention.

Claim 20 requires in part "wherein the instructions cause the computer to perform the play back of the buffered program in a manner faster than an original reception of the real time program" and "wherein the playing back of the buffered program in a faster manner is performed without the user having to fast forward through portions of the buffered program".

It is stated in the Response to Remarks portion of the Office Action that:

Regarding rejection claim 20 under 35 U.S.C 102(e) as being anticipated by Asmussen (US PAT: 7,293,279, filed 6-30-2000), Applicant argues that "Also, merely because the disclosure of the present patent application also discusses fast forward and fast reverse directions that are initiated by the user does not equate the user-initiated fast forward operation of the Asmussen with the faster playback of portions the buffered video disclosed in the specification and recited in claim 20". Regarding this, Applicant's disclosure states the following: once the call is ended, the buffered video is played back on the display from the point at which it was interrupted. Standard video controls such as fast forward and rewind, are provided via user input device 109. Such input device 109 may comprise a remote control in one embodiment. Using this video controls, portions of video may be skipped or fast forwarded (paragraph: 0022 of Applicant's published application). This is similar to what Asmussen has disclosed which examiner has used in rejection of the claims (col. 46 lines 10-23 of Asmussen). Therefore Asmussen teaching reads on applicant's claim 20.

However, it is submitted that this portion of the Asmussen patent (as discussed below) does not meet the requirements of claim 20 as amended. Merely using the "standard video controls" of a playback device does not

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meet the requirements of claim 20 as amended. Moreover, the present disclosure discusses the playback of the buffered video "faster than originally received" at page 6, lines 19 et seq.

It is alleged in the rejection these requirements of claim 20 are disclosed by the Asmussen patent at col. 46, lines 14 through 17 and col. 50, lines 46 through 52. Col. 46, lines 11 through 23 of Asmussen states that:

Since the video program has been buffered, the user may perform other functions. In particular, the user may rewind the video program, in which case buffer point 1425 moves in rewind direction 1427 to play previous portions of the video program. The user may fast forward the video program, in which case buffer point 1425 moves in fast forward direction 1426 toward the point of current transmission 1422 as the buffered video program is transmitted to display 1424. Accordingly, by transmitting the video program from various points along the buffered portion of the video program in buffer 1420, the user may perform VCR-type functions of real-time or other video programs. Various other buffering methodologies may also be used with the program pause feature.

Further, Asmussen states at col. 50, lines 37 through 52 that:

If the user selected a rewind command (step 1474), the system transmits the video program in rewind direction 1427 from the buffer (step 1484). The system also determines during the rewind if it has reached the end of the buffer at point 1421 (step 1485). Once the system reaches the end of the buffer, it waits for another user command as it cannot further rewind the video program. If the user entered a fast forward command (step 1475), the system determines if the program is transmitted at the current point of transmission 1422 (step 1486). If the program is already transmitted at its current point of transmission, the system cannot fast forward beyond that point and waits for another user command. Otherwise, the system transmits the program in fast forward direction 1426 from the buffer (step 1487), and continues fast forwarding the video program until it reaches the current point of transmission as determined in step 1486.

However, in each of these portions of the Asmussen patent, the discussion is referring to a "fast forward" function initiated by the user, and not a mode of "displaying [a] buffered program" as required by the language of the claim. It is submitted that these portions of the Asmussen patent do not

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establish to one of ordinary skill in the art that there is a display of the buffered program "in a manner faster than reception of the real time program", but instead merely discusses moving the current point of transmission through the buffer at an accelerated rate. It is therefore submitted that one of ordinary skill in the art, considering the Asmussen patent, particularly at these points, would not arrive at the requirements of claim 20, and particularly those requirements set forth above.

Claim 21 requires, in part, "a buffer coupled to the controller, wherein the buffer is configured to initiate buffering of the real-time program from the display of caller identification information for the call the buffer being further configured to not buffer portions of the real-time program such that upon playback of the buffered program, the portions of the real-time program not buffered are not played back and the buffering continues until the buffered program coincides with the real-time program".

The rejection of claim 21 in the Office Action concedes that:

Asmussen differs from claim 21 in that he does not specifically teach the following: the buffer being further configured to not buffer portions of the real-time program such that when the buffer provides the buffered program for playback of the buffered program, the portions of the real-time program not buffered are not played back and buffering continues until the buffered program coincides with the real-time program.

And then it is asserted that:

However, Takagi teaches the following: the buffer being further configured to not buffer portions of the real-time program such that when the buffer provides the buffered program for playback of the buffered program, the portions of the real-time program not buffered are not played back and buffering continues until the buffered program coincides with the real-time program (col. 10 lines 11-22).

Finally it is asserted that:

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Asmussen's system to provide for the following: the buffer being further configured to not buffer portions of the real-time program such that when the buffer

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provides the buffered program for playback of the buffered program, the portions of the real-time program not buffered are not played back and buffering continues until the buffered program coincides with the real-time program as this arrangement would facilitate to catch up with the real-time program being received without buffering portion of the real-time program as taught by Takagi, thereby conserving the use of memory or buffer.

However, the portion of the Takagi patent that is alleged to disclose "the buffer being further configured to not buffer portions of the real-time program such that upon playback of the buffered program, the portions of the real-time program not buffered are not played back and the buffering continues until the buffered program coincides with the real-time program" is the same portion that was discussed above, and it is submitted that the referenced portion of Takagi does not mention anything regarding not buffering portions of the real-time program so that the buffered program coincides with the real-time program. Again, while there is some discussion in Takagi regarding "catch up", there is nothing in Takagi that discloses to one of ordinary skill in the art what might cause this catch up, much less by not buffering a portion of the program. It is therefore submitted that the allegedly obvious combination of Asmussen and Takagi would not lead one of ordinary skill in the art to the requirements of claim 21.

Claim 22 requires in part "wherein said means for recording records the video input signal prior to a detection of an incoming phone call by said means for detecting such that the recorded video input includes a portion of the video input signal recorded prior to the detection of an incoming phone call *so that displaying the buffered program includes the portion of the video input signal recorded prior to the detection of the incoming phone call*" (emphasis added).

The Response to Arguments portion of the rejection states that:

Regarding rejection of claim 22, Applicant, reciting from Asmussen argues that "This does not discloses to one of ordinary skill in the art that the real time program is being recorded prior to

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detecting an incoming call. Asmussen here is merely disclosing what is happening after Asmussen system has begun buffering the video signal, after the system has detected the incoming call". Regarding this, Asmussen teaches: Upon detecting the occurrence of a communication event, the system optionally automatically pauses the video program in response to the communication event and continues to transmit it to buffer for storage (step 1443, fig. 28a, col. 47 lines 29-32). This clearly reads on applicant's claim limitation such as the real time program is being recorded prior to detecting an incoming call because communication event can read on caller ID which what applicant is relying on to recite: real time program is being recorded prior to detecting an incoming cal. Therefore, Asmussen disclosure reads on applicant's claim limitation.

However, claim 22 does not merely require recording prior to detecting a call, but also requires that "displaying the buffered program includes the portion of the video input signal recorded prior to the detection of the incoming phone call". It is further alleged in the rejection of claim 22 that:

Regarding claim 22, Asmussen discloses an apparatus, comprising: means for displaying video input signal, means for recording the video input signal (figs. 25-26), means (in set top terminal) for detecting an incoming phone call (col. 39 lines 19-42), means for causing the means for recording to record the video input signal in the Event detecting means detects the incoming phone call such that the displaying means are capable of displaying the recorded video signal to user upon termination of the phone call (abstract), wherein means for recording records the video signal prior to detection of the incoming phone call by means for detecting such that recorded video input includes a portion of the video input recorded prior to detection of an incoming phone call (step 1443 of fig. 28a; col. 47 lines 24-44) so that displaying of the buffered program includes a portion of the video input signal the video signal recorded to prior to detection of the incoming call (col. 45, line 60 - col. 46, line 23; col. 50 lines 28-52).

Looking to Asmussen at col. 45, line 60 through col. 46, line 23, it states that (emphasis added):

FIG. 26 illustrates use of the buffer for performing various video control functions, particularly after the video program has been paused. As the video program is paused, buffer point 1425 moves along buffer 1420 to track the last point of transmission of the video program. When the video program is paused, the user may execute various functions to continue to play the video program and play

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portions that were missed. Therefore, the amount of video buffered between point 1421 and buffer point 1425 represents an amount buffered before the video program was paused. The amount buffered between buffer point 1425 and point of current transmission 1422 represents the amount of video program missed by the user and buffered while the video program was paused. Upon requesting to play the video program, buffer point 1425 moves toward the beginning of buffer 1422 in order to play a buffered portion that was missed.

Since the video program has been buffered, the user may perform other functions. In particular, the user may rewind the video program, in which case buffer point 1425 moves in rewind direction 1427 to play previous portions of the video program. The user may fast forward the video program, in which case buffer point 1425 moves in fast forward direction 1426 toward the point of current transmission 1422 as the buffered video program is transmitted to display 1424. Accordingly, by transmitting the video program from various points along the buffered portion of the video program in buffer 1420, the user may perform VCR-type functions of real-time or other video programs. Various other buffering methodologies may also be used with the program pause feature.

This portion of the Asmussen patent, and particularly the portions of the patent highlighted above, discuss playback of the "portions that were missed" and the "amount of video program missed by the user", rather than playback over any other portion, especially any portion "so that displaying the buffered program includes the portion of the video input signal recorded prior to the detection of the incoming phone call". Simply because this portion of the Asmussen patent also discusses rewind and fast forward does not mean that one of ordinary skill in the art, considering this portion of the patent without knowledge of the applicants' disclosure, would recognize any ability to display the portion of the program recorded prior to the call as well as a portion prior to the call.

As referenced in the rejection, the Asmussen further states at col. 50, lines 28 through 52 that (emphasis added):

If the user entered a pause command (step 1473), the system determines that the video program is already paused (step 1481). If the program is paused, the system begins playing the program again from the buffer at buffer point 1425 (step 1482). If the program was not paused, the system pauses the video program and continues to transmit

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it to the buffer for storage (step 1483). Therefore, in this preferred embodiment the pause function operates to pause the program and, upon selection of pause again, begin playing the video program at the point where it was paused.

If the user selected a rewind command (step 1474), the system transmits the video program in rewind direction 1427 from the buffer (step 1484). The system also determines during the rewind if it has reached the end of the buffer at point 1421 (step 1485). Once the system reaches the end of the buffer, it waits for another user command as it cannot further rewind the video program. If the user entered a fast forward command (step 1475), the system determines if the program is transmitted at the current point of transmission 1422 (step 1486). If the program is already transmitted at its current point of transmission, the system cannot fast forward beyond that point and waits for another user command. Otherwise, the system transmits the program in fast forward direction 1426 from the buffer (step 1487), and continues fast forwarding the video program until it reaches the current point of transmission as determined in step 1486.

If the user entered a jump command (step 1476), the system determines if the program is transmitted at current point of transmission 1422 (step 1488); if not, it jumps to the start of the buffer such that buffer point 1425 corresponds with the point of current transmission 1422 and plays the program from that point (step 1489). If the user entered a slow motion command (step 1477), the system transmits the program from the buffer at a reduced rate, which may be predetermined or entered by the user (step 1490).

This portion of the Asmussen patent merely states that the user cannot rewind the program past the beginning of the buffered portion, and cannot be fast forwarded past the end of the buffered portion, but this does not indicate to one of ordinary skill in the art whether the buffered portion includes a portion of the program before the point at which the program was paused, and that the portion of the program before the point at which the program was paused is available to be reproduced.

It is therefore submitted that the Asmussen patent would not lead one of ordinary skill in the art to the applicant's claimed invention as defined in claims 20 and 22, especially with the requirements set forth above, and therefore it is submitted that claims 20 and 22 are allowable over the prior art. Further, claims 23, 25, 27 and 29, which depend from claim 22, also

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include the requirements discussed above and therefore are also submitted
to be in condition for allowance.

Withdrawal of the §102(e) and §103(a) rejections of claims 12, 20
through 31 and 33 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early
reconsideration and allowance of this application are most courteously
solicited.

Respectfully submitted,

WOODS, FULLER, SHULTZ & SMITH P.C.

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